

SECOND REGULAR SESSION

SENATE BILL NO. 913

97TH GENERAL ASSEMBLY

INTRODUCED BY SENATORS WASSON AND CUNNINGHAM.

Read 1st time February 24, 2014, and ordered printed.

TERRY L. SPIELER, Secretary.

6170S.01I

AN ACT

To repeal section 448.3-116, RSMo, and to enact in lieu thereof one new section relating to assessments on condominiums.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Section 448.3-116, RSMo, is repealed and one new section
2 enacted in lieu thereof, to be known as section 448.3-116, to read as follows:

448.3-116. 1. The association has a lien on a unit for any assessment
2 levied against that unit or fines imposed against its unit owner from the time the
3 assessment or fine becomes due. The association's lien may be foreclosed in like
4 manner as a mortgage on real estate or a power of sale pursuant to chapter
5 443. Unless the declaration otherwise provides, fees, charges, late charges, fines,
6 and interest charged pursuant to subdivisions (10), (11), and (12) of subsection
7 1 of section 448.3-102 are enforceable as assessments pursuant to this section. If
8 an assessment is payable in installments, the full amount of the assessment is
9 a lien from the time the first installment thereof becomes due.

10 2. A lien pursuant to this section is prior to all other liens and
11 encumbrances on a unit except:

12 (1) Liens and encumbrances recorded before the recordation of the
13 declaration;

14 (2) **[A] Any mortgage or deed of trust securing a purchase money**
15 **loan for the unit recorded prior to August 28, 2014;**

16 (3) **Any mortgage [and] or deed of trust [for the purchase of] on a unit**
17 **recorded before the date on which the assessment sought to be enforced became**
18 **[delinquent] due except that a lien under this section has limited**
19 **priority over the mortgage or deed of trust for common expense**

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

20 assessments in an amount not to exceed six months of the delinquent
21 common expense assessments based on the periodic budget adopted by
22 the association under subsection 1 of section 448.3-115 which would
23 have become due in the absence of acceleration during the six months
24 immediately preceding the date of filing of a petition to enforce the
25 association's lien or the date of sale by the holder of a mortgage or
26 deed of trust;

27 [(3)] (4) Liens for real estate taxes and other governmental assessments
28 or charges against the unit;

29 [(4) Except for delinquent assessments or fines, up to a maximum of six
30 months' assessments or fines, which are due prior to any subsequent refinancing
31 of a unit or for any subsequent second mortgage interest.]

32 (5) If the association forecloses its lien under this section in a
33 non-judicial manner under chapter 443, the association shall not be
34 entitled to the limited lien priority for common expense assessments
35 provided under subdivision (3) of subsection 2 of this section;

36 (6) This subsection does not affect the priority of mechanics' or
37 materialmen's liens, or the priority of liens for other assessments made by the
38 association. The lien pursuant to this section is not subject to the provisions of
39 section 513.475.

40 3. Unless the declaration provides otherwise, if two or more associations
41 have liens for assessments created at any time on the same real estate, those
42 liens have equal priority.

43 4. Recording of the declaration constitutes record notice and perfection of
44 the lien. No further recordation of any claim of lien for assessment pursuant to
45 this section is required.

46 5. A lien for unpaid assessments is extinguished unless proceedings to
47 enforce the lien are instituted within three years after the full amount of the
48 assessments becomes due.

49 6. This section shall not prohibit actions to recover sums for which
50 subsection 1 of this section creates a lien, or prohibit an association from taking
51 a deed in lieu of foreclosure.

52 7. The association shall be entitled to recover any costs and
53 reasonable attorneys' fees incurred in connection with the collection of
54 delinquent assessments. A judgment or decree in any action brought pursuant
55 to this section shall include costs and reasonable attorney's fees for the prevailing

56 party. **Attorneys' fees and costs shall not be included in the**
57 **association's lien under subdivision (3) of subsection 2 of this section.**

58 8. The association shall furnish to a unit owner **or any holder of a**
59 **mortgage or deed of trust**, upon written request, a recordable statement
60 setting forth the amount of unpaid assessments against the unit owner's
61 unit. The statement shall be furnished within ten business days after receipt of
62 the request and is binding on the association, the executive board, and every unit
63 owner **unless it is known by the recipient to be false.**

64 9. If a unit is occupied by a tenant and the record owner is
65 **delinquent in payment of assessments in excess of sixty days, the**
66 **association may demand payment of subsequent rental payments until**
67 **the record owner is no longer delinquent, the association releases the**
68 **tenant, or the tenant is no longer in possession of the unit. The demand**
69 **to the tenant shall be in writing, with a copy to the record owner, sent**
70 **via first-class United States mail, postage pre-paid, or hand delivery. A**
71 **tenant is immune from any claim by the record owner related to the**
72 **rent timely paid to the association after the association has made**
73 **written demand. If the tenant fails to make payment to the association,**
74 **the association may issue notice and evict under chapter 534. The**
75 **tenant does not, by virtue of payment, have any rights of a record**
76 **owner to vote in an election or examine the books and records of the**
77 **association.**

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